



March 2, 2020

**VIA ECF**

Hon. Lewis J. Liman  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

USDC SDNY  
DOCUMENT  
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Re: *Mario Hernandez v. BMNY Contracting Corp., et al.*  
Docket No.: 17-CV-9375 (GBD)

Dear Judge Liman:

This firm represents the named Plaintiffs and all opt-in Plaintiffs (collectively as “Plaintiffs”), which brought the above referenced matter against Defendants BMNY Contracting Corp., BMNY Construction Corp., Benedetto Cupo and Eastland Services Corp., their former employers, for various violations of the Fair Labor Standards Act and New York Labor Law, as well as wage claims under New York common law.<sup>1</sup> D.E. 61. The Court scheduled a status conference for March 11, 2020 at 10:00 a.m. Plaintiffs now write to request an adjournment of this conference and an extension of time to submit a proposed Case Management Order, and a referral to the SDNY mediation program.

Unfortunately, Plaintiffs’ counsel is unavailable on March 11, 2020 for this conference as the undersigned is scheduled to conduct a deposition in another matter during that time. As a result, Plaintiffs request, with Defendant BMNY Construction Corp.’s consent, an adjournment of the scheduled status conference and an extension of time to submit a proposed Case Management Order until one week prior to the rescheduled status conference. Having conferred, Plaintiffs and Defendant BMNY Construction Corp.’s counsel are available for a rescheduled status conference on April 13-15, 2020. This is Plaintiffs’ first request for an adjournment of this status conference and for extension of time to submit the proposed Case Management Order.

Additionally, Plaintiffs and Defendant BMNY Construction Corp. have agreed to submit this matter to the SDNY mediation program. This matter involves nineteen named Plaintiff and opt-in Plaintiffs, which will require substantial resources by all parties to conduct the remaining document discovery and depositions relating to these Plaintiffs. As such, the parties believe that mediation at this juncture may result in a resolution, while also conserving the parties’ resources to put toward a potential settlement. Accordingly, Plaintiffs request

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<sup>1</sup> Defendants BMNY Contracting Corp., BMNY Construction Corp., and Benedetto Cupo are not currently participating in this action and will be subject to a motion for default.

jointly, on behalf of Plaintiffs and Defendant BMNY Construction Corp., that this matter be referred to the SDNY mediation program.

We thank the Court for its kind consideration of this request.

Respectfully submitted,

/S/ David D. Barnhorn  
DAVID D. BARNHORN, ESQ.

C: All Counsel of Record

GRANTED. The status conference is adjourned until April 14, 2020 at 4:00 p.m. The parties shall jointly submit the proposed Case Management Plan at least one week before the conference.

The Court will refer the parties to mediation by separate Order.

SO ORDERED. 3/4/2020

  
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LEWIS J. LIMAN  
United States District Judge